

REMARKS

Claims 1-9 are pending. Claims 3 and 4 have been cancelled. Claims 1, 5 – 7 and 9 have been amended in this response. New claims 10 – 20 have been added.

Claims 1-9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Krubicza (EP 878,536), in view of applicant's admission of the prior art, Spack (GB 925,305) and Matsuki (JP 11-169160), further in view of Kanai (JP 5-76340), Mikami et al. (JP 4-62365) and Richter (DE 352160) for the reasons given in the Office Action mailed February 26, 2003 (Paper No. 4).

Claim 1 has been amended to require that the SAKE be pasteurized using a first pasteurization process and that, prior to being disposed in the translucent bottle, the ear of rice be pasteurized using a second pasteurization process different than the first pasteurization process used to pasteurize the SAKE. Claim 7 has been similarly amended to require that the alcoholic beverage be pasteurized using a first pasteurization process and that, prior to being disposed in the translucent container, the ear of rice be pasteurized using a second pasteurization process different than the first pasteurization process used to pasteurize the alcoholic beverage.

The combination of limitations required by claims 1 and 7 as amended are simply not taught, disclosed or suggested – either on their own or in combination – by any of the cited references. Krubicza merely discusses an alcoholic drink flavored with a hemp syrup and fails to consider a process or article requiring separate pasteurization processes as required by the limitations of amended claims 1 and 7. Spack merely discusses a means for disposing a fruit into a bottle having a neck smaller than the dimensions of the fruit. Similarly, Matsuki merely discloses a bottled fruit wine where an object of fruit is grown inside the bottle into which the wine is disposed. Richter merely discusses the inclusion of a flower in a perfume bottle with a perfume. Thus, Krubicza, Spack, Matsuki, and Richter each completely fail to address the combination of limitations required by the amended claims 1 and 7.

With respect to Kanai, this reference merely discusses the throwing of an un-sterilized tidbit into an alcoholic drink, sealing the tidbit and drink in a container and then sterilizing both the drink and the tidbit at the same time using the same sterilization process. Kanai, however, completely fails to teach, disclose or suggest a process or article having all of the limitations required by the amended claims 1 and 7 including the limitations requiring separate pasteurization processes as required by the limitations of amended claims 1 and 7. Similarly, Mikami merely discusses the sterilization of a cherry blossom using alcohol that is then inserted into a container filled with water and then frozen to produce an ice block with the cherry blossom inside the ice block. Mikami completely fails to teach, disclose or suggest the two separate pasteurization processes required by the limitations of amended claims 1 and 7.

Thus, none of the above cited references teach, disclose or suggest – either on their own or in combination - all of the limitations set forth in the amended claims 1 and 7. Therefore, claims 1 and 7, as amended, are now believe to be allowable.

Claims 2, 5, and 6 depend from the amended claim 1 and are, therefore, by virtue of their dependence believed to be in condition for allowance. Claims 8 and 9 depend from the amended claim 7 and are, therefore, by virtue of their dependence believed to be in condition for allowance.

New claims 10-20 have been added to further clarify and define the scope of embodiments disclosed in the present application.

If the Examiner has any questions or needs any additional information, the Examiner is invited to telephone the undersigned attorney at (650) 843-3215.

In addition, if for any reason an insufficient fee has been paid, the Examiner is hereby authorized to charge the insufficiency to Deposit Account No. 05-0150.

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Respectfully submitted,

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